



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 18, 1994

Ms. Kari A. Hernandez
Assistant City Attorney
City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901-1196

OR94-442

Dear Ms. Hernandez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 24265.

The City of El Paso (the "city") received a request for information concerning a certain near drowning incident. You claim the information is excepted from required public disclosure under sections 552.101 and 552.108 of the Government Code.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 34.08 of the Family Code provides that:

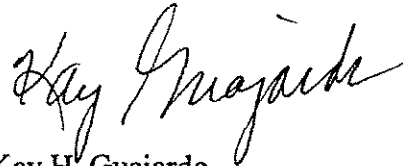
(a) Except as provided in Subsections (b) and (c) of this section, the reports, records, and working papers used or developed in an investigation made under this chapter are confidential and may be disclosed only for purposes consistent with the purposes of this code under regulations adopted by the investigating agency.

¹We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

Subsection (b) and (c) providing access to records for adoptive and prospective adoptive parents are not applicable to the situation at issue. We are not aware of any regulations promulgated by the city which permit the dissemination of this type of information. Accordingly, we agree that the requested information is made confidential by section 34.08 of the Family Code and must be withheld from disclosure under section 552.101 of the Government Code. *See* Open Records Decision No. 440 (1986) (copy enclosed). As we resolve this matter under section 552.101, we need not address the applicability of section 552.108.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with an informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kay Guajardo", written in a cursive style.

Kay H. Guajardo
Assistant Attorney General
Open Government Section

KHG/LBC/rho

Ref.: ID# 24265

Enclosures: Open Records Decision No. 440
Submitted documents

cc: Mr. Eduardo Miranda
Ray & McChristian
801 North El Paso Street
El Paso, Texas 79902-3903
(w/o enclosures)